



Memorandum

Date: September 24, 2012
To: Detective Aaron Thompson
From: Captain Scott Somers, IIU Commander
Re: IIU File 2012-143

Via: Direct

A handwritten signature in black ink, appearing to read "Scott Somers", written over a horizontal line.

The Internal Investigations Unit recently concluded an investigation in which you were alleged to have violated Department policies and procedures in reference to file IIU2012-143. The results of the investigation are as follows:

Allegation 1 –

**PERSONNEL CONDUCT: PERFORMANCE STANDARDS: APPROPRIATE USE OF
AUTHORITY: GOM 3.00.020.3(a)**

Deputies shall be aware of the extent and limitation of their authority in the enforcement of the law. -
SUSTAINED

Allegation 2 –

PERSONNEL CONDUCT: PERFORMANCE STANDARDS: GOM 3.00.020.1(c)(d)

All members must perform their assigned duties in a satisfactory and efficient manner. Unsatisfactory performance of duty shall be grounds for non-disciplinary action or disciplinary action up to and including discharge. "Unsatisfactory Performance" may be established when a member: Performs at a level significantly below the standard achieved by others in the work unit. Acts in violation of Sheriff's Office directives, rules, policies or procedures as set out in this manual, or elsewhere. - **SUSTAINED**

A recommendation has been made to include a non-disciplinary action of Performance Related Training to be provided to you and the entire NCI team, the Gang Unit and the Burien SET unit.

Please contact me at 206-296-4200 if you have any questions regarding this investigation.

SS: ejo

cc: IIU Case File
Division Commander
Charles Gaither/OLEO
Personnel File



Memorandum

Date: September 21, 2012

To: Captain Scott Somers

Via: Chain of Command

From: Major K. Scott Kimerer

Re: REVIEW AND RECOMMENDATIONS FOR IIU INVESTIGATION 2012-143

I have thoroughly reviewed the Officer Involved Shooting, King County Incident #12-0345512 and the related IIU Investigation #2012-143 regarding Detective Aaron Thompson. I have attached and included the Administrative Review that I conducted dated August 30, 2012. Based on those reviews, I make the following recommendations on the allegations listed.

ALLEGATION #1 GOM 3.00.020.3(a)

PERSONNEL CONDUCT: PERFORMANCE STANDARDS: APPROPRIATE USE OF AUTHORITY:

Deputies shall be aware of the extent and limitation of their authority in the enforcement of the law.

For this allegation, I recommend "Performance Related Training" (G.O.M. 3.03.185 (6)). This incident occurred on February 11, 2012 in Auburn Washington during the service of Department of Correction (DOC) Secretary's warrant for the residence of Nicholas Harrison. The King County Sheriff's Office (KCSO) and DOC's joint Neighborhood Correction Initiative team and members of the King County/Burien Gang Unit participated in the execution of this warrant. After Mr. Harrison was taken into custody, DOC Specialist Kristopher Rongen assisted by Detective Aaron Thompson conducted a search of the residence for potential violations by Mr. Harrison. While conducting the search, it was discovered that another subject, Dustin Theoharis, was currently in a downstairs room that had not been secured. Specialist Rongen and Detective Thompson immediately went to contact Theoharis. The encounter in that room resulted in Theoharis being shot by Rongen and Thompson. The question has been raised after a post incident review regarding the potential Fourth Amendment protection of the subject Theoharis. There have been administrative reviews by both the Washington State Department of Correction and the King County Sheriff's Office with a clear difference of opinion regarding the "Third Party" question. This is due to authorities granted to DOC and the status in this residence of this particular room and Theoharis. Detective Thompson has been consistent in his statements that he was assisted Specialist Rongen in the performance of his duty under the Department of Corrections authority. This contact was allegedly conducted as both part of a "Protective Sweep" and the authority of DOC to look for violations in common areas that Harrison had access. Detective Thompson stated that he is familiar with the policies of DOC. But admits he has not reviewed the recently. The review by the Department of Corrections of Specialist Rongen in this incident found no policy violations. However, a review and opinion of King County Prosecutor Cynthia Gannett is that this was a "Third Party" protected room and she does not believe Rongen had authority to enter.

Because of these inconsistencies and the hybrid nature of two agencies, the Washington Department of Corrections and the King County Sheriff's Office, having different authority and policies that are

contractually working together, I recommend that Detective Thompson receive training curriculum related to current Search and Seizure laws, the current related Department of Correction policies and a KCSO developed curriculum of the policy, procedures and expectations of the NCI unit.

ALLEGATION #2 GOM 3.00.020.1(c)(d)

PERSONNEL CONDUCT: PERFORMANCE STANDARDS:

All members must perform their assigned duties in a satisfactory and efficient manner. Unsatisfactory performance of duty shall be grounds for non-disciplinary action or disciplinary action up to and including discharge. "Unsatisfactory Performance" may be established when a member:

Performs at a level significantly below the standard achieved by others in the work unit.

Acts in violation of Sheriff's Office directives, rules, policies or procedures as set out in this manual, or elsewhere.

For this allegation, I recommend "Performance Related Training" (G.O.M. 3.03.185 (6)). I have reviewed the tactics demonstrated by the entire unit and specifically of Detective Aaron Thompson during the service of this warrant. I found the tactics lacked a thorough level of pre-planning and an inappropriate level of follow-up under the circumstances during the execution of the warrant. I do not find Thompson's performance significantly below the others in the work unit. The NCI and Gang unit working together have made several hundred of these warrant services during their existence. The units also work under a contract and Standard Operating Procedure signed in 2007 by then Sheriff Sue Rahr. In my review, the team members involved consistently describe this as a "low level" warrant service. Although there was prior knowledge of this residence, which included knowledge that people had used the downstairs room in the past, no initial "protective sweep" of the residence was conducted. Further, when information was obtained of an unsecured room, there was no information solicited from the homeowner regarding the occupant and no discussion with the team members as the best tactical approach. My review indicates a level of complacency due to the routine nature of these types of warrants and a lack of departmental review, audit and clear expectations for the function of this unit and all members who assist in that function.

I recommend a joint oversight review by the Washington State Department of Correction and the King County Sheriff's Office to clarify all legal and procedural inconsistencies and issues that include the tactical service of warrants. I further recommend that Detective Thompson and the entire NCI and Gang Unit receive this training.

Please contact me if you have questions or concerns.